



THE SENTINEL

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Unregulated Foreign Exchange Business

Several foreign exchange (forex) investment schemes have suddenly appeared, offering investors great profits. These schemes all claim to be exempted from regulation by either trading off-exchange forex or by offering services different from those provided by commodities brokers.

Trading of Futures Contracts

In the U.S., commodities trading is regulated almost exclusively by the Commodity Futures Trading Commission (CFTC). Federal commodities laws (the Commodity Exchange Act, or CEA) require that all trading of futures contracts be conducted on exchanges regulated by the CFTC and that the trading be done by professionals licensed by the CFTC or the commodities self-regulatory organization, the National Futures Association (NFA). If the trading is conducted on these "contract markets," the CFTC and NFA are the exclusive regulators. The states have authority to take action involving commodities trading only in instances of fraud

by licensed professionals or for off-exchange trading.

In some respects, there is overlap between the CEA and state securities laws. For example, commodity pool operators (CPOs) are licensed exclusively by the CFTC and NFA. However, the pools themselves are securities and must be registered or qualify for an exemption from registration. Persons selling interests in the pools must be licensed with the state to sell those pool interests – which are securities.

Off-Exchange Forex

Foreign exchange, like other financial futures (excluding spot purchases), must be traded on one of these regulated commodities exchanges. The buying and selling of off-exchange futures generally violates the CEA. Historically, most selling of off-exchange futures was conducted by bucket shops, companies who are not conducting trading on exchanges or through licensed commodities brokers. Bucket shops often conduct no trading at all or sell the forex to customers from their own supplies, taking the opposite position of customers.

If commodities are not traded on a regulated contract market, the trading is not subject to the exclusive jurisdiction of the CEA. This means

that state laws will apply to this conduct. In fact, the Utah Uniform Securities Act specifically states that commodity contracts and commodity options are securities. Utah Code Ann. §§61-1-13(1)(e), (f), (g), and (x)(i)(P).

As a consequence, the offer or sale of off-exchange futures, including forex, requires that: a) all salespersons be licensed with the Division, b) the investment opportunity must be registered or exempt, and c) the investor must be given full disclosure about the nature and risks of the investment. In other words, there is no regulatory vacuum or loophole between the commodities and securities laws. If forex trades (other than spot transactions) are not executed on a contract market, state securities laws will apply. Anyone seeking to sell off-exchange futures must be licensed with the Division of Securities and the offering must be qualified with the state.

Forex Account Management A different forex opportunity being promoted involves interposing two additional players in the mix. Under this arrangement, customers would be encouraged to invest in forex by opening individual accounts with futures commission merchants (FCMs – the commodities equivalent of a broker-dealer), which are licensed by the NFA. The customers would be solicited by “referring parties.” Each customer’s money would be segregated by the FCM and kept in an individual account, rather than being pooled. The customer would give limited power of attorney (LPOA) to a “manager” who would make trades in the account, using the customer funds. The referring parties would solicit customers to open the account, promote the services of the manager, and encourage the customers to give LPOAs to the manager. The LPOA would provide that the manager would receive performance-based compensation – a portion of the profits made in the customer’s account based on trading done by the manager (under the LPOA). The proponents of this model claim that the manager and referring parties are exempt from registering with the NFA.

The Division believes that the CEA does require licensing of at least the referring party as an associated person (AP) of the FCM where the account will be held. The NFA web site defines AP as “an individual who solicits orders, customers, or customer funds . . . on behalf of an FCM . . . ” www.nfa.futures.org/registration/ap.asp It appears, therefore, that the referring party (and, likely, also the manager) would fit this definition as they would be engaged in encouraging customers to open customer accounts, deposit money into those accounts, and authorize trading of currency futures using money in those accounts.

Even if the CFTC and NFA did not require licensing of the manager and referring parties under the commodities laws, the Utah securities laws would require a securities license for this conduct. In this situation, the manager is interposing himself between the customer and the FCM; he is creating a separate agreement between himself and the customer in which he will provide services for the customer and receive compensation from the customer for those services. That agreement is entirely separate from the agreements between the customer and the FCM relating to the opening of the account. In essence, the manager is creating an investment contract with the customer. Depending on the structure, the manager also might be acting as an investment adviser. The manager is promising to use his expertise to execute forex trades in the customer’s account. The customer is giving him access to the account (via the LPOA) based on an expectation that the forex trading will be profitable. All the elements of a classic investment contract exist.

Because the manager is selling an investment contract – a security – the offering must be registered or exempt. In addition, both the manager and the referring party must be licensed to sell securities in this state. We encourage all securities agents and members of the bar to let the Division know if they become aware of forex investment programs like those described here.

Investor Brochure

The CFTC has an excellent educational brochure that can be given to clients who may be considering forex investing or who want to know more about the risks of forex trading. The brochure can be downloaded at:

www.cftc.gov/files/enf/enfforexbrochure.pdf

When Notes Are Securities

The selling of promissory notes is the most common investment fraud being promoted today. The promissory notes might be used in connection with investments in real estate, investment pools, or as evidence of an investment in a company. Investment promoters contacted by the Division in connection with an investigation often declare: "I am not selling securities, I am just receiving personal loans from others."

Determining when "notes" are securities is a fairly straightforward process, although it is a distinction that is not well understood by investors or promoters. Notes, also called promissory notes, have two primary uses in the financial world: to secure repayment of bank loans and to evidence an investment that has been made. The second type is considered a security; the first is not.

In *Reves v. Ernst and Young*, 494 U.S. 56 (1990), the U.S. Supreme Court set out the process to use in distinguishing investment notes from financing notes. The Court pointed out that the term "note" is specifically listed as one of the products that are defined as securities, along with stocks, bonds, and other common types of investments. As a result, the Court said we begin with the presumption that all notes are securities. That presumption can be rebutted if an analysis of four factors indicates that the note is more like the type used for bank financing than for investment purposes. The four factors are: 1) the motivations of the seller and buyer (noting that if the seller's purpose is to raise money for the general use of a business or to finance investments, it is likely to be a security), 2) the method of distribution (i.e., whether there is a plan for wide distribution of the notes), 3) the

reasonable expectations of the investing public (i.e., if the public believes the instrument is an investment), and 4) whether the transactions at issue are subject to another regulatory scheme (such as bank regulatory oversight).

Even though the Supreme Court test laid out in *Reves* analyzed the federal securities laws, the Division of Securities follows the *Reves* test as a good means of distinguishing investment notes from notes used in financing transactions. A simpler, shorthand method of distinguishing investment notes from financing notes is to examine in which direction the money and notes flow. In a bank financing, the customer receives money and signs a note payable to the bank. In investment situations, the flow is reversed: the customer (investor) gives up money and receives a note from the promoter. Virtually all situations in which the money flows from the investor and the note is given to the investor involve the existence of a security.

It should also be remembered that many notes that are securities would qualify for exemption from the registration requirements and would exempt the seller of the notes from licensing requirements. However, the availability of an exemption does not excuse the issuers of notes from giving full disclosure of the salient aspects of the transaction.

Electronic Filing Of Form ADV Part II

On April 23rd, the NASD upgraded the online databases, the Central Registration Depository (CRD) and Investment Adviser Registration Depository (IARD). A great enhancement made to the IARD is that now investment advisers can file their Form ADV Part II, or brochures, online. While many have already taken advantage of this new functionality, there have been some common questions and concerns about the new process.

Before you can file Form ADV Part II through the

IARD, you must create a PDF copy of the form. The IARD requires that this PDF be a text-searchable document, rendering some older copies of the form found on the Internet obsolete.

Furthermore, finding a form with the right number of pages for Schedule F disclosures might be difficult for those who do not have a full version of Adobe Acrobat (or another PDF application) to insert or delete pages.

To accommodate those wanting to file the form electronically, the Division has added a new section to its website where investment advisers can choose a version of the Form ADV Part II that best fits their investment advisory business. This new section also offers a few helpful tips based on common issues the Division sees on Form ADV filings. The new section of the website can be found by navigating to the Licensing section of the Division's homepage or by going directly to the web address:

<http://www.securities.utah.gov/licensing.html>

The Division hopes these resources will help make the transition to electronic filing of Form ADV easier for all state-covered investment advisers. The Division expects that at some point in the future, electronic filing will be mandatory.

Evaluation Of Services

The Division's January 2007 Sentinel newsletter included a form soliciting comments from licensees and securities practitioners about the quality of services provided by the Division. The evaluation form also is available on the Division's web site and in the office lobby.

Only seven evaluations were returned. The Division's services were rated on a scale of 1 – 5. The seven evaluations ranged from a score of 2.8 to 5.0, with an average of 4.2. There was no pattern in the low ratings; the three ratings of 1 and 2 related to receiving information promptly, usefulness of information, and the quality of the web site.

Several useful suggestions were given on improving the content of the web site. Several employees were identified as having provided exceptional service. One comment merits additional explanation. The commenter noted that it would be helpful if the Division employed examiners who had previous experience in the securities industry.

Who we are

As noted below, the Division's examiners have significant experience in the securities industry:

- **George Robison**, Director of Licensing and Compliance, has a degree in finance. He was a registered representative for Fidelity Investments for three years. He has been with the Division for eight years. He has worked on several NASAA project groups and has been a frequent trainer for state and SEC examiners.
- **Chip Lyons**, an attorney with the Licensing Section, represented the brokerage community for four years prior to starting with the Division. Before attending law school, Chip was a registered representative with Fidelity in its institutional retirement department. Chip has been with the Division for over three years.
- **Leigh Davis-Schmidt**, an examiner, has her MBA. She has been with the Division for seven years. Leigh worked as an assistant compliance manager in the Capital Markets Unit of Zions Bank for two years. Prior to that, Leigh was an assistant branch manager at Zion's bank. She started her brokerage experience at Fidelity, where she was a registered representative.
- **Sheila Thomas**, an examiner, has a degree in accounting. She has worked for the Division for eight years. Before joining the Division, she worked for the Division of Occupational and Professional Licensing for nine years. Before joining the state, Sheila worked in the private sector doing accounting and as an assistant controller for a publicly-traded company.

- **Angie Kinser**, an investigator in the Licensing Section, is also an attorney. She came to Utah from the Kentucky Securities Division where she was an examiner. She also worked as a portfolio manager for Banc One Investment Advisors.

- **Richard Jaramillo**, a licensing examiner, has a degree in economics. He was a registered representative for Fidelity Investments for almost two years.

- **Jordan Morrow**, our newest examiner, worked as a registered representative and investment adviser representative for TD Ameritrade for three months before joining the Division. He previously worked as a registered representative with Fidelity Investments for a year.

Statistical Information

Licensing Activity	This Quarter	June 30 Total
Broker-dealers	38	1,713
Broker-dealer agents	2,641	78,916
Investment advisers (state)	3	169
I.A. representatives	218	2,259
Issuer agents	10	84
Filing Activity		YTD
Coordination registration	26	73
Qualification registration	1	1
Mutual funds/UITs	1,169	2,374
Regulation D filings	276	513
Exemption filings	13	19

When Must Issuers Be Licensed As Investment Advisers?

For the sales of most securities, the only licensing concern that an issuer must address is ensuring that the agents selling the securities are licensed (either by having sales made through a licensed

broker-dealer or licensing the agents of the issuer). In some instances, however, the issuer also must register as an investment adviser (or employ an investment adviser). This occurs when the product being sold is an interest in an investment pool.

This point may best be understood by using comparisons. If an issuer is selling stock in (or debt of) itself (the issuer), the investor will own a well-defined security. The other end of the spectrum would be a situation where an investor gives money to an investment expert, leaving it to the expert to decide how to manage the investment. This typically happens in one of two ways: a) each customer's money is handled on an individual basis by the money manager (investment adviser) or b) money from multiple customers is pooled and each customer has an interest in the pool. The prototypical example of the second type of pooled account is a mutual fund, where the investor funds are pooled and the pooled account (the mutual fund) owns the securities.

In general, if an investor is purchasing (and will hold in her own account) a particular security, the seller of that security only needs to be licensed as an agent. If an investor's money will be managed by another person, that person needs to be licensed as an investment adviser – whether the money will be managed individually or as part of a pooled account. In the case of the pooled account, the interest in the pooled account is itself a separate security from any securities that might be purchased with money from the account and those creating pooled accounts must ensure that the interests in the pooled accounts are registered or qualify for an exemption from registration.

Pooled accounts invest in a wide variety of products – from real estate to stocks to derivatives. The most common pooled accounts the Division is now seeing are hedge funds. Regardless of the type of investments being made with money from pooled accounts, the interests in the accounts are securities and the manager of the pool must

be licensed with the Division as an investment adviser (if interests in the pool are being sold to Utah investors or if the pool or money manager conducts business from Utah).

The Division recognizes that this regulatory approach is different from the approach taken at the federal level. The SEC's approach is based on a different set of rules and seeks to achieve different regulatory goals. The Division's policy is not new; it has been consistently applied for many years.

In sum, if hedge fund interests (or any pooled account) will be sold in Utah or if a pooled account will be conducting operations in or from Utah, investment adviser registration is required. Division employees are happy to answer questions regarding this policy or meet with people interested in learning how to comply with Utah's securities laws.

Litigation Against The Division

There are three lawsuits that have been filed against the Division.

- In 2006, Christena White filed a lawsuit against the Attorney General, the Division, and three current and former employees. The suit alleged that the state violated her civil rights by conducting an investigation of her and by filing criminal charges against her. On June 5, the federal Tenth Circuit Court of Appeals affirmed the district court's ruling that dismissed White's lawsuit.
- On April 3, 2007, the Division filed an appeal of a Third District Court ruling that the Division's unsuccessful efforts to recover restitution from a securities agent in a civil action precluded the Division from bringing an administrative licensing action against the agent.

- In October 2006, the Division issued a show cause order against viatical seller Life Partners, Inc., of Waco, Texas. Life Partners then filed suit against the Division Director in federal court in Texas, seeking to halt the Division's enforcement case. On June 18, the federal court in Texas ordered the case transferred to federal court in Utah where pending motions will be considered.

ENFORCEMENT

Summary Of Actions

Enforcement actions initiated or concluded during the second quarter of 2007 are listed below. Copies of enforcement orders entered by the Division can be found at: www.securities.utah.gov.

Remember: in criminal prosecutions, defendants are presumed innocent until proven guilty or until a plea is entered.

APRIL

Apr. 3, 2007. Criminal charges were filed by the Attorney General against **Jory C. Allen**, of Salt Lake, **Frank J. Gillen**, of Del Mar, CA, and **Chad D. Wright**, of Sandy. The three officers of City Lips Cosmetics were accused of selling \$454,000 in notes to investors to build the company's sales and take the company public. The notes promised 3% interest per month. The officers were charged with three counts of securities fraud and one count of abuse of a vulnerable adult.

Apr. 3, 2007. **Clifton C. Sneed**, and his company, **Sneed Financial Services**, of Dallas, TX, admitted defrauding three investors of \$92,000 in an advertising investment scheme. Investors, including an 84-year-old blind man, were told they would earn 16% return annually, with no risk. Sneed consented to a cease and desist order and will pay restitution to the victims. Docket No. SD-06-0016.

Apr. 3, 2007. A default order was entered against **Tim Haskin**, of Las Vegas, NV, for his role as president of Flavor Brands. The default order found that Haskin and others formed Flavor Brands in 2005 and tried to mislead the Pink Sheets and investors into believing it was the successor to a former Utah company that was publicly held. Haskin was ordered to cease and desist and must pay a \$50,000 fine. Docket No. SD-06-0059.

Apr. 3, 2007. **Greenmill Services, Inc.**, of Brooklyn, NY, was ordered to cease and desist from selling stocks in three New York companies: ETC Solutions, TurboScan, and NY Railroad.com. Investors were promised great profits and were told the money was being held in the World Bank. The Division found that the investor funds were used to pay veterinary bills, buy school books, and make payments to a farm. The order was entered by default. Docket No. SD-07-0005.

Apr. 4, 2007. **Progenitor Cell Therapy, LLC** and its former vice president, Elizabeth C. Cockrell, consented to an order finding that Cockrell sold stock in Utah without being licensed. Cockrell and the company agreed to offer rescission, will cease and desist violative conduct, and will pay a \$2,500 fine. Docket No. SD-07-0025.

Apr. 4, 2007. **A. Paul Schwenke**, a former attorney who lives in Heber City, was convicted by a Fillmore Utah jury of securities fraud. Schwenke persuaded dairy farmers in Delta to exchange their farm for stock in a company formed by Schwenke and another former attorney. After getting title to the farm, Schwenke borrowed \$50,000 against the farm. No payments were made on the loan or on the mortgage and the farm was repossessed.

Apr. 5, 2007. Criminal charges were filed by the Utah Attorney General's office against **Lamar N. Jensen**, of Salt Lake, and **Lawrence W. Jenkins**, of Draper, for fraudulently offering securities in World Wide Holdings, Inc. Investors were promised 100% return in one week in a prime bank scheme. In addition, investors were told they would get a free trip to China. Investors were

not told that Jensen had a previous conviction for forgery and owed nearly \$2 million in outstanding civil judgments.

Apr. 10, 2007. The Utah Attorney General filed a 13-count criminal information against **Johnny A. Sanchez**, of South Jordan, for soliciting \$145,000 from investors promising to take Nutratek, a dietary-supplement company, public. Some of the investor funds were used to pay Sanchez's personal expenses. Sanchez was charged with eight counts of securities fraud and five counts of theft.

Apr. 11, 2007. In a case investigated jointly by the Division, SEC, FBI, and Bureau of Land Management, the SEC filed a civil injunctive action and obtained a temporary restraining order and order freezing assets against **Novus Technologies, LLC, RCH2, LLC, Ralph W. Thompson, Jr., Duane C. Johnson, and Robert C. Hall**. The civil complaint alleges the defendants raised \$4.8 million from the sale of promissory notes and joint venture agreements. Investors were told the money would be used to make real estate loans, trade foreign currency futures, and buy real estate. Investors were solicited in shopping malls, on the Internet, and by referrals. 2:07-CV-00235.

Apr. 13, 2007. The Division filed an Order to Show Cause against **Johnny A. Sanchez** for the same conduct as was alleged in the criminal charges filed April 10. Some investors were told the company's products would stabilize blood sugar levels in diabetics and that Sanchez had a medical device that could scan human bodies to determine vitamin deficiencies. Docket No. SD-07-0029.

Apr. 16, 2007. **XCU Capital Corp.**, a broker-dealer headquartered in Carlsbad, CA, consented to an order requiring it to change how it advertises and provides investment services in the lobbies of credit unions in Utah. XCU will cease splitting transaction commissions with credit unions and take steps to ensure customers understand that

the investment products sold by XCU are not insured deposits. The firm paid a \$40,000 fine. Docket No. SD-07-0027.

Apr. 16, 2007. **Daniel D. Debenham**, of Sandy, was sentenced to up to five years in prison based on his earlier plea to three counts of securities fraud. The prison time was suspended. Debenham must serve 36 months probation and must pay \$314,825 in restitution within 18 months. He sold promissory notes to investors as part of The Millionaire Investors Group. Some investors allowed TMIG to use their credit scores to buy real estate. In fact, the funds were used to make payments on other property he owned and for personal expenses, including a trip to Hawaii. The judge noted that Debenham was living a lifestyle he did not earn.

Apr. 16, 2007. The Securities Advisory Board approved an order against **Andrew J. Moleff** for making misleading statements in a seminar targeting seniors. Among other statements, Moleff told the seniors that due to his skills, one of his clients could afford to take three vacations a year and invited Moleff and his family to join the client. In reality, the client was Moleff's father. Moleff also distributed materials not approved for dissemination to the public. Moleff admitted making misrepresentations. He will pay a fine of \$5,000 and be barred from the securities industry. Docket No. SD-06-0078.

Apr. 16, 2007. An order was also entered by the Securities Advisory Board against **John F. Hoschouer**, a subordinate of Moleff. Both were agents of World Group Securities. The order found that Hoschouer made misrepresentations when introducing Moleff. Hoschouer was fined and must requalify as a securities agent by retaking the required securities exams. Docket No. SD-06-0079.

Apr. 24, 2007. Criminal charges were filed by the Utah County Attorney against **Theodore L. Hansen**, of Provo, and **Charles W. Hanna**, of Springville. The two were charged with one count

of securities fraud and one count of theft for taking \$100,000 from an investor to purchase land at Thanksgiving Point. Most of the investor funds were used for other purposes such as paying rent, for payroll, and to fund other companies. The charges allege Hansen and Hanna (an attorney) claimed a large amount of money was coming in from a legal settlement. The investor was not told of multiple unpaid tax liens and judgments totaling over \$13 million.

Apr. 27, 2007. **Dale Allen Jones**, of Murray, was sentenced for taking \$20,000 from an investor for a phony mutual fund. Jones promised to triple the investor's money in 30 days and claimed the investment was with Vanguard and was 100% guaranteed. Jones was sentenced to jail for 180 days and must pay \$20,000 in restitution.

MAY

May 9, 2007. **Jeffrey Lane Mowen**, of Lindon, pleaded guilty to theft for taking \$200,000 from fellow members of a multilevel marketing program, claiming he would engage in profitable foreign currency trading. Instead, the funds were used to pay personal expenses, including repaying money taken from an earlier investor. He claimed to be an extremely successful international banker. Mowen failed to disclose two prior criminal convictions and \$78,000 in unpaid judgments.

May 10, 2007. The Utah Attorney General filed criminal charges against **Robert W. Fain**, of Cottonwood Heights, **Daron W. LeBlanc**, of Orem, and **Tony M. Versteeg**, of Sandy. They were each charged with three counts of securities fraud for taking \$55,000 from a family, claiming the money would be used to place kiosks in shopping malls to generate leads for mortgage lending. Investors were not told that Fain had a prior criminal conviction and still owed restitution in that case, that two defendants had previously filed for bankruptcy, and that all three owed unpaid judgments.

May 14, 2007. **Glenn Allen Britt**, of Layton, pleaded guilty to securities fraud. He was sentenced to probation and ordered to pay \$211,979 in restitution. Britt and others had held seminars in Davis and Weber counties selling promissory notes. Investors were told the money would be lent to builders working on large construction projects and that the loans were backed by real estate. Promised interest rates ranged from 18% to 60%.

May 17, 2007. The Division issued an emergency cease and desist order to **Harold Earl Bushman**, of Orem, for taking \$18,375 from investors. He claimed he had worked for Sun Microsystems and Intel and would use the funds to exercise stock options, giving the profits to the investors. After two investors became suspicious and demanded a refund, Bushman solicited a third investor and used those funds to make payments to the first two. Bushman had never worked for Sun or Intel and failed to disclose he owed over \$120,000 in unpaid judgments. Docket No. SD-07-0030.

May 18, 2007. A Midvale company, **Cyberhand Robotics Corp.**, and its president, **David Watson**, of Oviedo, FL, were ordered to cease and desist selling securities in Utah without registering the securities and having the salespersons be licensed. Cyberhand and Watson formed a new Utah company in 2006 with the same name as a former publicly-traded Utah company. Cyberhand then authorized the issuance of one billion shares of stock and told the Pink Sheets that it was the successor to the earlier company. The order was entered by default after the company and Watson failed to respond to the charges or appear at a hearing. Docket No. SD-07-0020.

May 21, 2007. **A. Paul Schwenke**, a former lawyer, was sentenced to an additional 1-15 years in prison following his April 4 conviction on securities fraud. Schwenke was also ordered to pay \$120,000 in restitution.

May 21, 2007. An Order to Show Cause was issued against **Mascot Financial**, and two of its officers,

Samuel Duane Aston and **Scot Stobbe**, of Provo. They are accused of securities fraud for taking \$340,000 from an investor, promising the funds would earn 40% over three years. The investor was told the investment had no risk and was guaranteed. The respondents falsely claimed the company had been in business ten years and had offices in 20 states. The investor was not told the company's business was being challenged by the state and could no longer offer debt-elimination services. Docket No. SD-07-0035.

May 22, 2007. **Janelle M. Garner**, of Ogden, was sentenced to up to five years in prison for soliciting investments in her educational company, Attitude Adjustment Factory. Garner had violated a 2001 cease and desist order issued by the Division and failed to disclose unpaid judgments against her. She must pay restitution and a fine.

May 31, 2007. An Order to Show Cause was issued against **Joseph Paul (Jay) Ottis** and his company **Globie International, LLC**. Ottis is accused of taking over \$110,000 from an investor, promising to use the money to fund a television program centered around "Globie" characters that would teach children about global warming. Ottis promised a 10-20% return plus 2% of the company's profits. He said he was negotiating with Disney and Nickelodeon and that there was no risk. He did not disclose his prior convictions for theft and credit card fraud. Docket No. SD-07-0039.

May 25, 2007. **Kristine Mylonakis** had her probation revoked and was sent to jail for six months for failing to make restitution payments to investors on her 2005 conviction. Mylonakis had solicited investors for a company that was developing a mechanism to hide outdoor home Christmas lights during the off season.

JUNE

June 1, 2007. **World Group Securities**, a broker-dealer based in Duluth, GA, consented to an order and will pay a \$50,000 fine and enhance

its supervisory practices after two of its agents were found misrepresenting the credentials of a branch manager of WGS during a "free lunch" seminar for seniors. The order also finds that WGS engaged in misrepresentations by permitting some of its agents to distribute a magazine issue that highlighted a WGS affiliate and that promoted WGS and its agents. In fact, the affiliated company paid to have the magazine issue created and some of the agents paid to have their pictures placed on the cover of the magazine. Docket No. SD-06-0080.

June 6, 2007. Cease and desist proceedings were initiated against **American Mortgage Alliance, National Mortgage Alliance, Real Prints, Inc.**, and three officers, **Robert M. Fain, Daron W. LeBlanc**, and **Tony M. Versteeg**. The six are accused of soliciting investments for a mortgage business and failing to disclose prior criminal convictions against one officer and negative financial histories against the others. When one investor said he did not have money to invest, LeBlanc helped him arrange a second mortgage on the investor's home. This action follows a May 10 criminal filing against the three officers. Docket No. SD-07-0040.

June 6, 2007. **Jamis Johnson**, a former attorney from Salt Lake, was sentenced following his conviction for securities fraud in convincing a Delta family to exchange ownership of their farm for stock in a newly-formed company. Johnson must spend at least six months in Millard County jail and another six months home confinement and pay \$150,000 in restitution. The investors were not told that Johnson had outstanding federal tax liens of over \$1.9 million and that there were civil judgments and lawsuits pending against him. Johnson claimed to be a lawyer, but he had been disbarred in 2000 for misappropriating client funds.

June 13, 2007. The Utah County Attorney filed criminal charges against **Samuel Duane Aston** and **Scot Stobbe**, former owners of Mascot Financial, for taking \$340,000 from an investor

to fund Mascot's debt-elimination services. The investor was promised 30% interest, but was not told about problems the company faced. The investor was repaid \$77,000 by the new owners of a company that had been affiliated with Mascot.

June 13, 2007. **Sedona Oil and Gas Corporation**, of Dallas, TX, consented to cease selling oil and gas investments in Utah without providing accurate information to investors and will ensure that any salespersons also are licensed. In addition, four officers also agreed to cease violating the law: **Kenneth W. Crumbley, Jr.** (president), **Barry Spruiell**, **Ron Meyer**, and **John T. Crumbley**. The order followed an investigation by the Division after a Sedona salesman had called a Utah investor every day for six weeks until the investor finally agreed to invest. In addition, the investor was not told that two other states had previously ordered Sedona to cease illegal sales there. The company was fined \$7,500. Docket No. SD-05-0033.

June 19, 2007. A consent order was entered against **Mauro E. Lobato**, of Plain City, for raising \$101,350 from investors by selling notes from two companies. He told investors the money would be used for real estate lending and would be secured by trust deeds, accounts receivable, real estate, and government treasuries. The money was not used for the promised projects and the investors have not received any of their funds. A \$5,000 fine was assessed, but it will be waived if Lobato provides assistance to the state in its criminal prosecution of the main promoter, Glenn Britt. Docket No. SD-07-0004.

June 20, 2007. The Division issued an Order to Show Cause against **Jason King Brent**, of Layton, for taking \$34,450 from two investors for a nightclub he claimed would be opening in Salt Lake City. The order also names two of Brent's companies as violating the law: Ice Nightclub, LLC, and Investment Capitalists, LLC. Brent is accused of telling investors he would double their money in 30 days and that payment was not conditioned on the success of the nightclub. Docket No. SD-07-0048.

June 20, 2007. A default order was entered against **J.D. Pulver**, of Riverview, FL. Pulver was president of Flavor Brands, a Utah company formed in 2005 that pretended to be the successor to a prior Utah company. Flavor Brands then sought to issue more stock and told the Pink Sheets it was the same company (hoping to be able to sell newly issued shares). The order imposed a \$50,000 fine. Docket No. SD-06-0068.

June 20, 2007. **Jeffrey L. Mowen**, of Lindon, was sentenced on his conviction for theft in connection with \$200,000 he had taken from an investor based on promises he was a currency trading expert. Mowen used the investor funds for personal uses. Mowen was sentenced to 260 days on an ankle monitor and must undergo cognitive restructuring. At the time of sentencing, Mowen repaid the investor.

June 26, 2007. An order was entered against **Michael Robbins**, of Bellport, NY, for his role in abusive trading of customer accounts from 1999 to 2001. While a licensed agent of Kimberly Securities, Robbins had sold securities in Utah when he was not licensed, made unauthorized trades, excessively traded accounts, made unsuitable investments, and failed to close out accounts when requested. This order replaces an order entered by default in 2005. The order was approved by the Securities Advisory Board. Robbins agreed never to be licensed in Utah and will pay \$29,218 in restitution. Docket No. SD-02-0058.

June 26, 2007. The Securities Advisory Board approved entry of an order against **Steven B. Heinz**, of Orem, for making recommendations that were not in the best interests of customers. Heinz had put \$627,000 belonging to a customer with little investment expertise into 17 different mutual funds in ways that maximized his commissions and caused the customer to pay higher fees. He also improperly had the customer sell investments in her 401(k) account. He misrepresented information to the customer, including a claim he

would earn no commissions. The customer paid \$23,490 in commissions. Heinz consented to the entry of the order and will pay a fine of \$50,000. Docket No. SD-06-0021.

Investor Education Events

August 25, 2007. **AARP's "Staying Sharp" Brain Fitness and Fraud Forum** at Park City Marriott Hotel, 1895 Sidewinder Drive, Park City, Utah, 9:30 a.m. - 2 p.m. The Division of Securities has joined AARP to help seniors avoid becoming victims of fraud. Attendees will learn about identity theft, scam detection, and investor protection in an entertaining and lively presentation. The seminar is free and a box lunch is provided by AARP. For a schedule of events go to: www.aarp.org.states.ut.

October 19-20. **9th Annual Utah Senior Expo** South Towne Exposition Center, 9575 South State Street Sandy, Utah, Friday, 8 am - 5 pm, Saturday, 8 am - 4 pm. The Senior Expo features free admission, 25+ free medical screenings, 175+ exhibits, bingo, great prizes, and free transportation. This is the third year the Division will have a booth at the Senior Expo. Seniors will receive a packet filled with tips on how to invest wisely and avoid being scammed. For more information visit: www.seniorexpo.org.

November 10, 2007. **AARP's "Staying Sharp Brain Fitness and Fraud Forum** in Richfield, Utah. The location has not been decided. The Division will discuss scam detection and investor protection.



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